

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
STATE OF MISSOURI

KEVIN McDERMOTT and	)	
ROBIN McDERMOTT,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No.: 4:19-cv-906
	)	
TOMISLAV NEKIC,	)	
<u>Serve At:</u>	)	<b>JURY TRIAL DEMANDED</b>
9218 Marston Way	)	
Montgomery, AL 36117	)	
	)	
Defendant.	)	

**COMPLAINT**

COME NOW Plaintiffs Kevin McDermott and Robin McDermott, by and through their attorneys, Padberg, Corrigan & Appelbaum, and for their cause of action against Defendant Tomislav Nekic, state as follows:

1. At all times herein mentioned, Plaintiffs were the biological parents of Molly McDermott, and were residents and citizens of the State of Missouri.
2. Molly McDermott died on or about December 26, 2018, and Plaintiffs herein are the only statutorily enabled class members to bring this cause of action.
3. That Defendant is an individual who is a resident and citizen of the State of Alabama.
4. That jurisdiction in this Court is proper under 28 USC § 1332 in that all the parties are citizens of different states and the amount in controversy exceeds \$75,000.00.

5. On or about December 26, 2018, Defendant was operating a vehicle on property located in Washington County, Missouri, and specifically on PP Mill Stone Drive. At the time Defendant was operating the vehicle, the vehicle was overloaded in that it had too many passengers for its graded capacity.

6. Plaintiffs' decedent, Molly McDermott, was a seated passenger in the vehicle.

7. Defendant operated the vehicle in a manner that was careless and negligent, and was in a violation of the highest degree of care, which caused the vehicle to rollover, and cause the death of Plaintiffs' decedent, Molly McDermott.

8. Defendant was careless and negligent in the following respects:

- (a) Defendant operated the vehicle at a speed which was excessive;
- (b) Defendant operated the vehicle in an overloaded condition;
- (c) Defendant failed to keep a careful lookout ahead and laterally ahead;  
and
- (d) Defendant steered the vehicle in a manner to overturn it.

9. As a direct and proximate result of the aforementioned, Molly McDermott sustained fatal injuries, and Plaintiffs bring this cause of action for all damages allowed under the Missouri wrongful death act.

WHEREFORE, Plaintiffs Kevin McDermott and Robin McDermott pray for judgment against Defendant Tomislav Nekić in a sum in excess of \$75,000.00, together with their costs herein expended, and for such further relief that this Honorable Court deems just and proper under the circumstances.

Respectfully submitted,

PADBERG, CORRIGAN & APPELBAUM  
A Professional Corporation  
Attorneys for Plaintiffs

/s/ Matthew J. Padberg

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